

Council Communication

Department: Public Works Division: Building Case/Project No.	Ordinance No. <u>6067</u>	First Reading 3/29/2010 Second Reading n/a Third Reading n/a
Subject/Title		
AN ORDINANCE to amend Title 13 entitled "Buildings and Construction" of the 2005 Municipal Code of Council Bluffs, Iowa, by enacting a new Chapter 13.01 to be codified and entitled "Administrative Provisions".		
Background/Discussion		
This ordinance is created from the existing administrative chapters of the Codes adopted in Municipal Code Title 13 along with the license provision chapters. The Administrative Provisions of all these codes are proposed to be compiled into one location for conformity and simplicity.		
Recommendation		
The Public Works Director and the Building Official recommend that this proposed ordinance be favorably considered and passed into law.		

Public Work Director's Signature

Mayor's Signature

Building Official's Signature

ORDINANCE 6067

AN ORDINANCE to amend Title 13 entitled “Buildings and Construction” of the 2005 Municipal Code of Council Bluffs, Iowa, by enacting a new Chapter 13.01 to be codified and entitled “Administrative Provisions”.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1.

That Title 13 entitled “Buildings and Construction” of the 2005 Municipal Code of Council Bluffs, Iowa, is hereby amended by enacting a new Chapter 13.01 to be codified and entitled “Administrative Provisions”, to read as follows:

Chapter 13.01 ADMINISTRATIVE PROVISIONS

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ARTICLE 1 GENERAL

13.01.011 – Title of Chapter.

The provisions contained in this chapter shall be known as the “*Administrative Provisions*” for the codes that have been adopted by and for the City Council and enforced by the Building Division of the Public Works Department in Council Bluffs, Iowa. Therefore with the exception of the adoption, scope, and definitions sections, the adopted codes that will use this chapter as its administrative code provisions shall be: the International Residential Code, the International Building Code, the International Mechanical Code, the International Fuel Gas Code, the National Electrical Code, the International Existing Building Code, the Uniform Plumbing Code, the International Energy Conservation Code, the Uniform Code for the Abatement of Dangerous Buildings, Uniform Swimming Pool, Spa, and Hot Tub Code, and the International Property Maintenance Code.

13.01.012 – Scope of the Building Division. The provisions of the Building Division is to enforce the minimum requirements of the adopted codes as amended for the construction, alteration, moving, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

13.01.013 – Intent of the Building Division. The purpose of the Building Division is to enforce the minimum requirements of the adopted codes as amended and to safeguard the following: the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, safety to life and property from fire and other hazards attributed to the built environment, and to provide safety to fire fighters and emergency responders during emergency operations.

13.01.014 – Scope of the Published Codes. The Building Division has been empowered to enforce, administer, and/or regulate the following published and copyrighted codes which shall be hereinafter referred to as “the adopted Codes”. A copy of the following adopted Codes are on file and are open for inspection of the public in the office of the Building Official which hereby are referred to, adopted, and made apart hereof as if fully set out in this ordinance. These Codes are:

13.01.014.1 – Abatement of Dangerous Building Code. The provisions of the Abatement of Dangerous Building Code as found in Chapter 13.03 of the Municipal Code shall apply to the nuisance abatement, maintenance, repair, alterations, cleaning, and other related remedies of buildings.

13.01.014.2 – Residential Building Code. The provisions of the Residential Building Code as found in Chapter 13.06 of the Municipal Code shall apply to the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all one and two family residences.

13.01.014.3 – Building Code. The provisions of the Building Code as found in Chapter 13.08 of the Municipal Code shall apply to the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, and maintenance of all commercial, industrial, and multi-family residences.

13.01.014.4 – Mechanical Code. The provisions of the Mechanical Code as found in Chapter 13.09 of the Municipal Code shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, piping, fixtures, fittings and/or appurtenances, including ventilating, heating, boilers, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

13.01.014.5 – Plumbing Code. The provisions of the Plumbing Code as found in Chapter 13.12 of the Municipal Code shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, piping, fittings, and appurtenances from the building to where connected to the gas, water, sanitary sewage, and/or storm water mains to comprise a system. The Plumbing Code also applies to all aspects of a medical gas system. The provisions of the State of Iowa Private Sewage Disposal Code shall apply to private sewage disposal systems.

13.01.014.6 – Electrical Code. The provisions of the Electrical Code as found in Chapter 13.16 of the Municipal Code shall apply to the installation of electrical conductors, equipment, and raceways; signaling and communications conductors, equipment, and raceways; and optical fiber cables and raceways for the following:

- .A Public and private premises, including buildings, structures, mobile homes, recreational vehicles, and floating buildings
- .B Yards, lots, parking lots, carnivals, and industrial substations
- .C Installations of conductors and equipment that connect to the supply of electricity
- .D Installations used by the electric utility, such as office buildings, warehouses, garages, machine shops, and recreational buildings, that are not an integral part of a generation plant, substation, or control center.

13.01.014.7 – Energy Conservation Code. The provisions of the Energy Conservation Code as found in Chapter 13.20 of the Municipal Code shall apply to all matters governing the design and construction of buildings for energy efficiency.

13.01.014.8 - Property Maintenance Code. The provisions of the Property Maintenance Code as found in Chapter 13.21 of the Municipal Code shall apply to all existing structures and premises that are occupied, vacant, or abandoned; equipment and facilities; light, ventilation, heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

13.01.014.9 – Existing Building Code. The provisions of the Existing Building Code as found in Chapter 13.23 of the Municipal Code shall apply to the repair, alteration, change of occupancy, addition and relocation of existing buildings.

13.01.014.10 – Fuel Gas Code. The provisions of the Fuel Gas Code as found in Chapter 13.26 of the Municipal Code shall apply to the installation of fuel gas piping systems, fuel gas utilization equipment, gaseous hydrogen systems and related accessories.

13.01.014.11 - Uniform Swimming Pool, Spa, & Hot Tub Code. The provisions of the Swimming Pool, Spa, and Hot Tub Code as found in Chapter 13.27 of the Municipal Code shall apply to the installation of any swimming pool, spa, and/or hot tub located at a single family residence as an accessory structure. This code is intended to regulate only the plumbing and gas concerns. There is an exemption of this Code being: prefabricated swimming pools with the pool walls entirely above the adjacent grade and the capacity does not exceed 5,000 gallons.

13.01.015 – Scope of the Non-published Codes. The Building Division has been empowered to enforce, administer, and/or regulate the following non-published and non-copyrighted Codes which shall be hereinafter referred to as “the adopted Codes”. These Codes have been adopted by the City Council and are as found in the Municipal Code. These Codes are:

13.01.015.1 – Demolition of Buildings and Structures Code. The provisions of the Demolition of Buildings and Structures Code as found in Chapter 13.05 of the Municipal Code shall apply to the demolition of every building or structure or any appurtenances connected or attached to such building or structure. The purpose of this chapter is to establish the minimum requirements to safeguard the public health, safety, general welfare of life and property from hazards attributed to the demolition environment.

13.01.015.2 – Backflow Prevention Code. The provisions of the Backflow Prevention Code as found in Chapter 13.14 of the Municipal Code shall apply to the potable water system including any installations, alterations, repairs, or replacement to backflow devices for equipment, appliances, fixtures, fittings and/or appurtenances thereto.

13.01.015.3 – Factory-Built Structures Code. The provisions of the Factory-Built Structures Code as found in Chapter 13.18 of the Municipal Code shall apply to factory-built structures that are installed, set-down, moved, altered, repaired, or added to.

13.01.015.4 – Floodplain Management Code. The provisions of the Floodplain Management Code as found in Chapter 13.25 of the Municipal Code shall apply to structures that are constructed, erected, altered, moved, or demolished within the floodplain or floodway. Also, to any grading, excavation, and/or filling within the floodplain or floodway.

13.01.015.5 – Grading and Excavation Code. The provisions of the Grading and Excavation Code as found in Chapter 13.33 of the Municipal Code shall apply to any grading, excavation, and/or filling of land which includes tree protection, drainage, terracing, and erosion control.

13.01.015.6 – Radon Reduction System. The provisions of the Radon Reduction System Provisions as found in Chapter 13.35 of the Municipal Code shall apply to new construction of single-family, two-family, and multiple-family housing units.

13.01.015.7 – Sign Code. The provisions of the Sign Code as found in Chapter 13.40 of the Municipal Code shall apply to the construction, alteration, erection, reface, relocation, or alteration of any signage.

13.01.016 – Definitions. The definitions that shall apply to Title 13 of the Municipal Code are as follows:

13.01.016.1 Mechanical Equipment. Mechanical equipment means all furnaces, boilers, heat pumps, and other heating equipment and devices; vents and ducts; cooling and refrigeration equipment; piping; central air conditioners; and related apparatus or parts thereof.

13.01.016.2 Mechanical Work. Mechanical work means the installation, alteration, repair, removal, renewal, replacement, disturbance, connection, disconnection, and/or maintenance of mechanical equipment. This shall include fuel gas, low voltage control wiring, and/or electrical hookup of mechanical equipment from the supply to the mechanical equipment, with inspector's approval.

13.01.016.3 Plumbing Work. Plumbing work is the installation, alteration, replacement, repair, and maintenance of plumbing fixtures; plumbing systems; potable water systems; drain, waste, and vent systems; fuel gas systems; and other piping systems which includes but are not limited to: hot water heating package boilers; potable water boilers; other piping systems for solid, liquid, and/or gas; setting fixtures; septic systems; sewer laterals and water services from the public main to the building sewer; and other related areas.

13.01.016.4 Electrical Work. Electrical work means the installation of all equipment, wiring, materials, fittings, devices, appliances, fixtures and apparatus used for the production, modification, regulations, control, distribution, utilization or safeguarding of electrical energy for mechanical, chemical, cosmetic, heating, lighting or similar purposes.

ARTICLE 2 APPLICABILITY

13.01.021– Codes and applicability. Where, in any specific case, different sections of the adopted codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

13.01.022 - Other laws. The provisions of the local codes as adopted by the city of Council Bluffs shall not be deemed to nullify any provisions of the state or federal law.

13.01.023 - Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of the adopted Codes.

13.01.024 - Referenced codes and standards. The codes and standards referenced in each of the adopted Codes shall be considered part of the requirements of the adopted Codes to the prescribed extent of each such reference. Where differences occur between provisions of the adopted Codes and referenced codes and standards, the provisions of the adopted Codes shall apply.

13.01.025 - Partial invalidity. In the event that any part or provision of the adopted Codes is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

13.01.026 - Existing structures. The legal occupancy of any structure existing on the date of adoption of the adopted Codes shall be permitted to continue without change, except as is specifically covered in certain adopted Codes being: the Property Maintenance Code, the Life Safety Code, or the Fire Code, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public. However, if a commercial or industrial structure is vacant for a period of more than two calendar years and/or the water, electric and/or gas service turned-off, then the legal occupancy of the structure's Occupancy shall become classified as "Utility".

ARTICLE 3 BUILDING DIVISION

13.01.031 - Creation of enforcement agency. There is hereby created in the City of Council Bluffs the Building Division, which shall be under the jurisdiction of the Public Works Department, with administrative authority as delegated by the Public Works Director through the Building Official.

13.01.032 - Appointment. The Building Official shall be appointed by the Public Works Director with the approval of the Mayor.

13.01.033 - Designees. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the Public Works Director, the Building Official shall have the authority to appoint a Deputy Building Official, the related technical officers, Inspectors, plan examiners and other designated employees. Such designated employees shall have powers as delegated by the Building Official and hereinafter these Designees shall be implied to be included whenever Building Official is mentioned.

ARTICLE 4 DUTIES AND POWERS OF THE BUILDING OFFICIAL

13.01.041 – Duties and powers of the Building Official. The Building Official is hereby authorized and directed to enforce the provisions of the adopted Codes. The Building Official shall have the authority to render interpretations of the adopted Codes and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of the adopted Codes. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the adopted Codes.

13.01.042 - Applications and permits. The Building Official shall receive applications, review construction plans and documents, and issue permits for the erection, alteration, demolition, and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of the adopted Codes. The Building Official shall receive applications for permits and may distribute them to the following departments: Fire, Public Works, Health, and Community Development. The Building Official shall determine if the application complies with the Codes prior to issuance of a permit. The contractor shall commence on electrical, plumbing, and mechanical work after their application is submitted, approved, and paid for. The General Contractor shall commence on building work after the application is approved, paid for and issued.

13.01.043 - Notices and orders. The Building Official may issue necessary notices or orders to ensure compliance with the adopted Codes.

13.01.044 - Inspections. The Building Official shall make the required inspections as determined and/or the Building Official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

13.01.045 - Identification. The Building Official and the inspectors shall carry proper identification when inspecting structures or premises in the performance of their duties.

13.01.046 - Right of entry. Where it is necessary to make an inspection to enforce the provisions of the adopted Codes, or where the Building Official or designee has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of the adopted Codes which makes the structure or premises unsafe, dangerous or hazardous, the Building Official or designee is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the adopted Codes, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official or designee shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official or designee shall have recourse to the remedies provided by law to secure entry by obtaining an administrative search warrant.

13.01.047 - Department records. The Building Official or designee shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be only be required to be retained in the official records for the period of five years as retention of public records.

13.01.048 - Liability. The Building Official, members of the Appeal Boards, or Building Division employees charged with the enforcement of the adopted Codes, while acting for the City of Council Bluffs in good faith and without malice in the discharge of the duties required by the adopted Codes or other pertinent law or ordinance, shall not thereby be rendered liable personally. They are hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any board member or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of the adopted Codes shall be defended by legal representative of the City of Council Bluffs until the final termination of the proceedings. The Building Official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of the adopted Codes.

ARTICLE 5 MATERIALS

13.01.051 - Approved materials and equipment. Materials, equipment and devices approved by the Building Official shall be installed in accordance with the approved plans and codes in a neat workman like manner.

13.01.052 - Used materials and equipment. The use of used materials which meet the requirements of the adopted Codes for new materials is permitted. Provided that used materials, equipment and devices are approved by the Building Official.

13.01.053 - Modifications. Wherever there are practical difficulties involved in carrying out the provisions of the adopted Codes, the Building Official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the Building Official shall first find that special individual reason makes the strict letter of the adopted Codes impractical and the modification is in compliance with the intent and purpose of the adopted Codes and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The Building Official may authorize Inspectors this authority. The details of action granting modifications shall be recorded and entered in the files of the Building Division.

13.01.054 - Alternative materials, design and methods of construction and equipment. The provisions of the adopted Codes are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the adopted Codes, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the Building Official finds that the proposed design is satisfactory and complies with the intent of the provisions of the adopted Codes, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the adopted Codes in quality, strength, effectiveness, fire resistance, durability and safety.

13.01.055 - Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in the adopted Codes, shall consist of valid research reports from sources approved by the Building Official.

13.01.056 - Tests. Whenever there is insufficient evidence of compliance with the provisions of the adopted Codes, or evidence that a material or method does not conform to the requirements of the

adopted Codes, or in order to substantiate claims for alternative materials or methods, the Building Official shall have the authority to acquire tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in the adopted Codes or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall have authority to approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the Building Official for a period of five years. Whenever there is insufficient evidence of compliance with any of the provisions of this code or evidence that materials or construction do not conform to the requirements of this code or any other codes adopted by the City of Council Bluffs, the administrative authority and/or inspector may require a test as evidence of compliance to be made at no expense to this jurisdiction.

ARTICLE 6 PERMITS

13.01.061 - Permits required. Any owner, tenant, General Contractor, or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure which is regulated by the adopted Codes, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permits.

Any owner, tenant, contractor, master, or authorized agent who intends to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system which is regulated by any of the adopted Codes, or to cause any such work to be done, shall first make application to the Building Official and obtain any required permits.

The required permits may include: building, commercial demolition, demolition, electrical, factory built, fence, flood plain, footing, grading, mechanical, moving, parking, phased, plumbing, roofing, shell, sign, structural, swimming pool, and/or temporary electrical pole.

13.01.062 - Work exempt from permit. Exemptions from permit requirements of the adopted Codes shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the adopted Codes or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

13.01.062.1 – Building Exemptions:

1. One-story detached accessory structures of 1&2 family residences, used as tool and storage sheds, playhouses and similar uses, provided the floor area is less than 120 square feet (11 m²).
2. Fences not over 6 feet (1829 mm) high.
3. Oil derricks.
4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the grade to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
5. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18 925 L) and the ratio of height to diameter or width does not exceed 2:1.
6. Sidewalks, driveways, and concrete patios that are not over any basement or story below and/or are not in the public right-of-way.
7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
8. Temporary motion picture, television and theater stage sets and scenery (for no more than fifteen calendar days)
9. Prefabricated swimming pools accessory to an Occupancy Group R-3 occupancy that are not capable of containing a depth of 24 inches (610mm), do not exceed 5,000 gallons (18 925 L) and are installed entirely above ground.
10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
11. Swings and other playground equipment.
12. Awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

13. Nonfixed and movable fixtures, cases, racks and counters.
14. Movable cases, counters, shelving, partitions not higher than 5 feet 9 inches.
15. Siding and/or gutter installations, alterations, replacements, or repairs.
16. Windows and Doors replacements as long as it is size for size or less and/or fire rated with at least the same fire rating.
17. Stabilizations with rods and/or anchors of foundation walls and/or floors.

13.01.062.2 – Electrical Exemptions:

1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. Radio and television transmitting stations: The provisions of the adopted Codes shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.
3. Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.
4. Maximum addition of 2 outlets and 1 fixture per project.

13.01.062.3 – Gas Exemptions:

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

13.01.062.4 – Mechanical Exemptions:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by the adopted Codes.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
8. Portable Humidifier
9. Portable Dehumidifier

13.01.062.5 – Plumbing Exemptions:

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in the adopted Codes.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.
3. Addition of water service to refrigerator/icemaker or humidifier.
4. Maintenance of plumbing system that would include but not limited to replacement of fixtures.

13.01.063 - Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the Building Official.

13.01.064 - Repairs. Application or notice to the Building Official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress

requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

13.01.065 - Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or other related equipment that is under the ownership and control of public service agencies by established right.

13.01.066 - Application for permit. To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the Building Division for that purpose. Such application may include:

- .1 Identify and describe the work to be covered by the permit.
- .2 Legal description and/or street address of the property.
- .3 Use, Group Occupancy, and Type of Construction.
- .4 Construction documents and/or other information as required by the Building Official.
- .5 Valuation of the proposed work.
- .6 Signature of the applicant and/or the applicant's authorized agent.
- .7 Other data and/or information as may be required by the Building Official.

13.01.067 - Action on application. The Building Official or designee shall examine or cause to be examined the applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Building Official or designee shall reject such application in writing, stating the reasons therefore. If the Building Official or designee is satisfied that the proposed work conforms to the requirements of the adopted Codes and laws and ordinances applicable thereto, the Building Official or designee shall issue a permit therefore as soon as practicable and/or possible. Applications shall be processed in the order/type received.

ARTICLE 7 PERMIT LIMITATIONS

13.01.071 - Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 calendar days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Building Official is authorized to grant one or more extensions of time for additional periods not exceeding 30 calendar days each. The extension shall be requested in writing and justifiable cause demonstrated.

13.01.072 - Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the adopted Codes or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of the adopted Codes or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized to prevent occupancy or use of a structure where in violation of the adopted Codes or of any other ordinances of this jurisdiction.

13.01.073 - Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 90 days after the time the work is commenced. Every permit issued by the Building Official under the provisions of the adopted Codes shall expire by time limitation and become null and void after these number of months from issuance as follows:

PERMITS	MONTHS	PERMITS	MONTHS	PERMITS	MONTHS
Sign	6	Footing	6	Electrical	12
Grading	12	Structural Frame	6	Plumbing	12
Roofing	12	Manufactured Structure	6	Mechanical	12
		Swimming Pool	6	Building	18

13.01.074 - Suspension or revocation. The Building Official is authorized to suspend or revoke a permit issued under the provisions of the adopted Codes wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of the adopted Codes.

13.01.075 - Placement of permit. Copies of all permits issued and approved plans should be kept at the project site or in the accessible possession of the Contractors until the completion of the project. The building permit "Permit Issued" poster should be visible from the street.

13.01.076 - Homeowners—Permit required.

(1) The owner or owners of a single-family dwelling or modular, including the usual accessory buildings and quarters used exclusively for living purposes, may do building, electrical, plumbing, and mechanical work upon or within said single-family dwelling and accessory buildings without a license if the capability to do such work is demonstrated by such owner or owners to the satisfaction of the inspector; provided, however, that the dwelling or modular structure will be occupied by such owner or owners for at least two more years after finishing the project and that a permit for such work has been issued as provided in the Codes of the city of Council Bluffs. Then at the discretion of the Building Official, the homeowner of a single family home may be allowed to be their own General Contractor for a project of their principal residence that is recorded in their name. The homeowner to provide proof of residency i.e. drivers license or similar.

(2) In consideration of the city of Council Bluffs granting said permit to the homeowner, the homeowner agrees to release, hold harmless, indemnify, and defend the city of Council Bluffs, its agents and employees from and against all liability, loss, damages, claims, and judgments asserted or rendered against said City or its agents or employees for damage to property or injury to person, including death, at any time resulting therefrom, wherein an allegation is made that the homeowner negligently or improperly designed or performed electrical work, or wherein it is alleged that the city or its agents or employees negligently or improperly failed to discover patent or latent defects in the design or performance of work, or otherwise in any manner whatsoever failed to enforce any provision of the Codes then in effect.

13.01.077 - Permit transfer and notification of quitting installation. There shall be administrative processes known as Permit Transfer and Notification of Quitting Installation. A Notification of Quitting Installation may be required on a project. Should any person to whom a permit has been issued desire to quit such work, such person shall notify the Building Official in writing and request an inspection. Acceptance of or violations against the work installed shall be recorded by the inspector on the permit record according to the findings of the inspector. No refund shall be granted to the permit grantee of the permit fee covering equipment installed and inspected.

If a permit grantee quits an installation after the equipment is installed and fails to notify the Building Official, then the owner or his or her agent may notify the Building Official and request inspection. Upon inspection, the permit grantee shall be sent a notice of any violation. The owner shall be notified that he/she may secure another licensed contractor to proceed with the work. In case the permit grantee gives written permission or appears in person with another contractor and grants permission, the permit shall be transferred to the latter licensed contractor, provided that the latter contractor pays the established transfer fee. The transfer fee shall be equal to permit fee of the value of the work yet to be accomplished.

If permission is not granted by the original permit holder, the contractor who completes the installation shall secure a permit covering the work he or she does, and the latter contractor shall secure a permit covering the work he or she does, and the latter contractor shall be responsible in either case for all work done under his or her supervision. An owner who secured a permit to make installations of equipment in his or her residence may transfer his or her permit to a licensed contractor, provided the owner notifies the inspection authority of his or her intention, receives inspection of the work by him or her, and has his or her contractor pay the established transfer fee to the Building Official. Before proceeding with any work which has been started by any other permit grantee, an owner shall request the Building Official to inspect the installation for which a permit was granted and also to inspect any work performed, and shall also obtain an owner's permit for the remaining part of the installation. The original permit grantee may, if he or she desires, transfer his or her permit to the owner upon the owner's payment to the Building Official of the required transfer fee. Before a permit can be renewed, the required fees as shown by this ordinance shall be paid.

13.01.078 - Permits subject to grading permits. Prior to the approval of the building final, the applicant must establish to the satisfaction of the Administrative Authority that the site work that is subject to any prior issued grading permit is in compliance with the code, approved plans, and permit limits.

13.01.079 - Permit issued to.

The General Building Contractor or the General Residential Contractor that holds a valid Council Bluffs license, the type of permit may be issued to the type of contractor that has a valid Council Bluffs license or registration , i.e.: grading permits to a registered Grading Contractor, demolition permits to a licensed Demolition Contractor, sign and billboard permits to a registered Sign Contractor, moving permits to a licensed Moving Contractor, factory built structure permits to an Installer licensed with the State of Iowa Building Code Commissioner, swimming pool permits to registered Swimming Pool Contractors, retaining wall permits to registered Retaining Wall Contractors, fence permits to registered Fence Contractors, residential roofing permits to licensed Roofing Limited Contractors, commercial roofing permits to licensed Roofing Unlimited Contractors, and parking lots to registered Parking Lot Contractors.

13.01.079.1 Building Permits. Building permits shall only be issued to the General Contractor who has a valid City of Council Bluffs license for the work. At the discretion of the Building Official, a commercial building Owner/Tenant may be allowed to be their own General Contractor. At the discretion of the Building Official, a homeowner of a single family home may be allowed to be their own General Contractor for a project of their principal residence that is recorded in their name.

13.01.079.2 Electrical Permits. Electrical permits shall only be issued to the Electrical Contractor / Master who has a valid City of Council Bluffs Electrical Contractor's license or a valid State of Iowa Electrical Contractor's/Master's license. At the discretion of the Electrical Inspector, the Homeowner may be allowed to do their own electrical work if that is where they reside.

13.01.079.3 Plumbing Permits. Plumbing permits shall only be issued to the Plumbing Master who has a valid State of Iowa Plumbing Master's license. At the discretion of the Plumbing Inspector, the Homeowner may be allowed to do their own plumbing work if that is where they reside.

13.01.079.4 Mechanical Permits Mechanical permits shall only be issued to the Mechanical Master who has a valid State of Iowa Mechanical Master's license. At the discretion of the Mechanical Inspector, the Homeowner may be allowed to do their own mechanical work if that is where they reside.

ARTICLE 8 CONSTRUCTION DOCUMENTS

13.01.081 - Submittal documents. Plans, engineering calculations (if required), diagrams and other data shall be submitted in three sets as required with each application for a 1&2 family building permit and in at least four sets with each application for a commercial building permit. The Building Official will require applications applicable to the adopted Codes to have plans, computations and specifications

prepared, designed, and sealed by an architect and/or professional engineer licensed by the State of Iowa for commercial building permits, industrial building permits, multi-family building permits, retaining walls over seven feet in height above grade, or where special construction conditions exist as determined by the Building Official. For commercial plans, the Designer shall complete and submit the City's approved "Plan Review Submittal" form. The professional engineer shall be classified for the discipline of engineering he was examined in, granted a current Iowa license, and/or practices in that discipline. Submittals shall be in compliance with the State of Iowa Administrative Code, the City of Council Bluffs Municipal Code and the Public Works Department specifications for "Driveway Approach Construction, Sidewalks, Excavations, and Surface Restoration". Submittals shall include construction inspection requirements as defined below in Article 13.

Exception: The Building Official may waive the requirement of sealed plans on a commercial project if he finds that the nature of the work applied for is such that there is a very minor amount of work (less than \$9,000.00 valuation) and does not impact the life-safety functions of the building.

13.01.081.1 - Information on construction documents. Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the adopted Codes and relevant laws, ordinances, rules and regulations, as determined by the Building Official. Construction documents shall normally include but not limited to a site plan, legal description, floor plans, building elevations, wall section, electrical, plumbing, mechanical, and door and window schedules.

13.01.081.2 - Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to the Fire Marshal to indicate conformance with the adopted Codes and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards.

13.01.081.3 - Means of egress. The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of the adopted Codes. In other than occupancies in Groups R-2, R-3, and I-I, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

13.01.081.4 - Exterior wall envelope. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with the adopted Codes. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

13.01.082 - Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

13.01.083 - Examination of documents. The Building Official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the

construction indicated and described is in accordance with the requirements of the adopted Codes and other pertinent laws or ordinances.

13.01.083.1 - Approval of construction documents. When the Building Official issues a permit, the construction documents shall be approved subject to any written comments or conditions. One set of construction documents so reviewed shall be retained by the Building Official. The other sets shall be returned to the applicant. One set shall be kept at the site of work and shall be open to inspection by the Building Official or a duly authorized representative.

13.01.083.2 - Previous approvals. The adopted Codes shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of the adopted Codes and has not been abandoned. Changes in construction documents are to be submitted and approved prior to continuation of work when changes affect footprint, structural, and life-safety issues.

13.01.084 – Design Professional in Responsible Charge. For commercial and industrial buildings or when it is required that documents be prepared by an Iowa registered design professional, the Building Official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The Building Official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

13.01.084.1 – Structural observations. Where structural observation is required by the code, the statement of special inspections shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

13.01.084.2 - Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the Building Official within a specified period.

Deferral of any submittal items shall have the prior approval of the Building Official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the Building Official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the Building Official with a notation indicating that the deferred submittal documents have been reviewed and been found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the design and submittal documents have been approved by the Building Official.

13.01.085 - Amended construction documents. Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

13.01.086 - Retention of construction documents. One set of approved construction documents shall be retained by the Building Official for a period of five years from date of permit issuance of the permitted work.

ARTICLE 9 PHASED CONSTRUCTION

13.01.091- Phased Construction. There are minimum requirements for a "Partial Permit" project to accommodate large or complex developments and allow the start of actual construction prior to the total completion of all plans and the issuance of all required building permits.

These requirements are the minimum to be provided by the general contractor or the developer before any building permits may be obtained and construction may begin. This procedure is for a "Partial Permit" project and may require modification for a specific project. Normally a "Partial Permit" consists of a footing permit, a structural frame permit, and then the building permit.

13.01.092 - Phased Construction approval. The Building Official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of the adopted Codes. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

13.01.093 - Preliminary meetings. The "Partial Permit" process may be initiated by a meeting with the Owner, Developer, Engineer, Architect, Contractor, the Building Official, the Fire Marshal, and other appropriate City Departments and involved agencies. At this meeting the Owner, Developer, Engineer, or Architect should:

- A. Outline the overall scope of the work to be performed;
- B. Declare the intent to process the project by the "Partial Permit" procedure; and
- C. Provide a written schedule of:
 1. Construction milestone dates; and
 2. Plan element submittal dates.

At this meeting, the City should identify the following requirements:

- A. Procedures for plan change submittals;
- B. Inspection procedures by City staff;
- C. Inspection and testing procedures by the Quality Assurance Agency;
- D. Limits placed on the project by using the "Partial Permit" process; and
- E. Fees and fee schedules.

No actual construction may begin until a permit is issued.

13.01.094 – Phased Construction submittals. The second step in the "Partial Permit" procedure is the formal submittal of plans and obtaining a building permit. Several items are required to be submitted before any permits are issued. The submittal should consist of the following information:

13.01.094.1 - Complete plot plan showing all proposed structures with dimensions to all buildings, structures, property lines, easements, etc. Show sizes of all buildings and utility service locations to each; water, sewer, gas, electric, storm drains, telephone, and etc;

13.01.094.2 - Grading plan and maybe a soils report;

13.01.094.3 - The front sheet of the Architectural plans should provide the basic design information about the total project. This information should include:

- Type of construction
- Occupancy classification
- Occupant loads
- Area of structures
- Number of stories and height
- Number of rooms
- Sprinklered or Non-Sprinklered

- Reference codes under which it is designed
- Land use zone
- restroom fixture compliance

13.01.094.4 - Floor plan of each floor showing all uses;

13.01.094.5 - Master exit plan will be required on a complex project;

13.01.094.6 - Complete structural calculations for the entire project maybe required;

13.01.094.7 - Complete structural plans for the full major component requested for permit;

13.01.094.8 - High Rise Life Safety Package shall be submitted if applicable; and

13.01.094.9 - Complete plumbing, mechanical and electrical plans for the work that must be constructed within the foundation or structural proposal.

13.01.095 – Phased Permits and Fees Due to the substantial amount of additional time in reviewing and issuing multiple permits for "Partial Permit" Projects, the footing permit fee charged will be 50% of building permit fee. This does not apply to grading. All building permits are cumulative. Permits for construction to proceed would only be issued after plans and appropriate information have been submitted, checked, and approved. There could possibly be several separate permits issued on a single project based on the number of phases for which plans are submitted. It will be at the discretion of the Building Division to determine the amount of plans and information to be submitted before a permit for the next phase of construction is issued. This process would be discussed at the initial plan review meeting and should be identified in the written description provided at the initial meeting. Close control will be maintained to assure that the latest approved plans are on the job and that construction has been approved. Construction will be stopped if it has progressed past the scope of work for which the permits were issued.

13.01.095.1 Grading Permits

A permit for grading only may be obtained separately. This permit must be for the entire project site. This permit excludes excavation of the foundation. This permit may include on-site drainage channels and underground box culverts.

13.01.095.2 Foundation Permits

Upon completion of all the requirements listed above, a foundation only permit may be obtained. This permit must be for the total foundation, i.e., tower, low rise, and separate buildings on the site. Partial foundation permits for the elements listed below will not be issued. No work may proceed beyond that point until additional permits are issued or work will be stopped.

"Foundation Only" is defined as concrete work for footings, piles and slabs on grade up to finish floor elevation.

Includes:

- a. Rebar dowels above slab to tie in columns or walls.
- b. Retaining walls (concrete or masonry) to support slabs-on-grade on uneven ground.
- c. Retaining walls for basements.
- d. Bolts or plates cast in slabs.

May Include:

- a. Caps above finished grade.
- b. Foundation Walls above finish grade.
- c. Any elevated slabs, such as slabs over basements.
- d. Any related foundation construction above surrounding ground level.

Prior to issuance of the foundation only permit, the agreement for all required special inspections must be signed by the owner or his representative, the Quality Assurance Agency identified and written verification of their scope of work provided to the City.

13.01.095.3 Building Permits

a. Structural Permits may be obtained for a total building, i.e., tower, low-rise, and separate building on the same site. The structural permit may be issued for a partial as follows:

Towers: This must be issued in total. Only one structural permit will be issued for a high-rise tower.

Low-rise: Large area buildings may be broken down to a maximum of three areas and separate permits issued.

Prior to issuance of a structural only permit, the contract for all required special inspections must be signed by the owner or his representative, the Special Inspector identified and approved with written verification of their scope of work provided to the City.

b. Architectural permits may be obtained for the total building, i.e., tower, low-rise and separate buildings on the same site. Architectural permits may be issued for partial work only if it matches the areas that structural permits have been issued for.

c. Plumbing, Mechanical and Electrical Permits

Any sub-permits for above grade work may only be issued for the areas that a structural permit has been issued.

d. On-Site Plumbing and Electrical

A permit for on-site plumbing and/or electrical underground may be obtained. These permits can only be issued after a footing/foundation permit is issued.

13.01.096 – Phased assistance. The City offers, at the option of the Owner, Developer, Engineer, Architect, or Contractor to assist with preliminary plan reviews prior to submission of application for areas of concerns or questions.

ARTICLE 10 INFRASTRUCTURE

13.01.101 - Infrastructure. Prior to the issuance of a building permit, the applicant must establish to the satisfaction of the Building Official that the site is adequately serviced by infrastructure to accommodate the proposed structure and use. The primary elements that will be reviewed in making this determination will be: street and sidewalk, sanitary and storm sewer, and water.

13.01.102 - Infrastructure - Street and Sidewalk. The applicant shall establish that the site has direct access to an open city street. For the purpose of this section, an open city street is a street that has been improved and maintained by the city, and is regularly used by the general public. If the site's only access is to an unopened street, applicant shall be required to cause said street to be improved to a standard equivalent to that required in a new subdivision. The completion of said improvement will be a condition to the issuance of a building permit. If the site does not have a public sidewalk and has not been granted a variance for same, applicant shall cause one to be constructed where the site abuts a city street. The completion of this improvement will be a condition to the issuance of a certificate of occupancy.

13.01.103 - Infrastructure - Sanitary and Storm Sewer. The applicant shall establish that the building site has direct access to the city sanitary sewer, or that the site will be adequately serviced by a properly permitted septic system. Applicant shall establish that the site is adequately serviced for storm water run-off; and that the proposed construction will not adversely affect abutting property owners with an increase in run-off.

13.01.104 - Infrastructure - Water. The applicant shall establish that the building site has direct access to city water, or that the site will be serviced by a well. In either case, the water supply shall be adequate to satisfy not only the needs of the structure, but also sufficient to provide fire protection.

ARTICLE 11 TEMPORARY STRUCTURES AND USES

13.01.111 – Temporary Structures and Uses. The Fire Marshal is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service.

13.01.112 - Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the adopted Codes as necessary to ensure public health, safety and general welfare.

13.01.113 - Temporary power. The Chief Electrical Inspector is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the Electrical Code.

13.01.114 - Termination of permit approval. The Fire Marshal is authorized to terminate permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

ARTICLE 12 FEES

13.01.121 - Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid to the City, nor shall an amendment to a permit be valid until the additional fee, if any, has been paid.

13.01.122 - Schedule of permit fees. On building, grading, electrical, mechanical, plumbing and other related applications, a fee for each permit shall be paid as required, in accordance with the schedule of fees prior to the permit being issued. These fees shall be as described in the City's Schedule of Fees as located in the office of the City Clerk.

13.01.123 - Building permit valuations. The applicant for a permit shall provide an estimated permit value. Permit valuations shall include total value of work including materials and labor for which the permit is being issued such as electrical, gas, mechanical, plumbing equipment and permanent systems. The determination of value or valuation for new construction per square foot under any of the provisions of the adopted Codes shall be as currently published by the International Code Council. For residential 1&2 family, the square foot construction cost is 64% factor of the table valuation R-3VA. If, in the opinion of the Building Official, the valuation is under estimated on the application for remodeling, the Building Official shall require the applicant can show detailed estimates to meet the approval of the Building Official. However, the final building permit valuation shall be set by the Building Official.

13.01.124 – Investigative fees. Any Contractor or Homeowner who commences any work on a building, structure, electrical, gas, mechanical, plumbing or utility system before obtaining the necessary permits is subject to an investigative fee that will be in addition to the required permit fees and/or subject to a municipal civil citation.

13.01.125 - Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

13.01.126 - Refunds. The Building Official may authorize refunding of any fee paid which was erroneously paid or collected. The Building Official is authorized to refund not more than 80 percent of the permit fee paid when no substantial work has been commenced under a permit issued in accordance with the code. The Building Official is not authorized to refund any fee paid except on written application filed by the person who paid for the permit not later than 90 calendar days after the date of the fee payment. If a permittee applies for the same permit more than once on a property for the same work and makes a doubled fee payment, then the permittee is authorized to request the Building Official to apply the doubled fee to be applied to another property if the request is made within 90 calendar days after the date of the doubled fee payment.

13.01.127 - Plan review fee. The plan review fees shall be in the amount as set forth in the current schedule of fees as adopted by the city council. When plans or other data is submitted by this jurisdiction to I.C.C. or a similar outside agency for review, then a plan review fee as set forth in the current schedule of fees as adopted by the city council. Such plan review fee will be assessed before the review. The plan review fee shall be assessed as an administrative fee for local code review process. The Building Official shall have the authority and discretion to use I.C.C. or a plan review agency for any plan review deemed necessary. When additional plan review is required because of a permit holder's requested changes, additions, or revisions to approved plans, there will be additional plan review fees assessed as per the schedule of fees.

13.01.128 – Permit issuance fee. There shall be a permit issuance fee paid in the amount set forth in the current schedule of fees as adopted by the city council for: plumbing, electrical, mechanical, and grading permits. There is no permit issuance fee for building permit type applications. There is a supplemental permit issuance fee that may be used only when additional work is needed on the project as set forth in the schedule of fees. When a contractor initiates a permit online then there is a computer online permit application fee that shall have a reduced permit issuance fee as set forth in the schedule of fees.

ARTICLE 13 INSPECTIONS

13.01.131 - Inspections. Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of the adopted Codes or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of the adopted Codes or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Building Official nor the City of Council Bluffs shall be liable for expense entailed in the removal or replacement of any material required to allow inspection. If the project requires or the contractor requests inspections outside of the normal working hours, there will be an additional fee assessed as outlined in the Schedule of Fees with a minimum charge of two hours. If the project requires a field inspection and there is no permit fee specifically indicated for the inspection, then there will be an inspection fee as outlined in the Schedule of Fees with a minimum charge of half an hour. Project sites shall be prepared for the requested inspections and shall be safe. Construction debris shall not be allowed to blow by the wind around the project area.

13.01.132 - Preliminary inspection. Before issuing a permit, the Building Official shall be authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

13.01.133 - Required inspections. The Building Official, upon notification, shall make the building inspections set forth in the following sections:

13.01.133.1 - Footing and foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

13.01.133.2 - Concrete slab and under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel, vapor barrier, building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

13.01.133.3 - Lowest floor elevation. In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Chapter 13.25 of the Municipal Code shall be submitted to the Building Official.

13.01.133.4 - Frame inspection. Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

13.01.133.5 - Fire-resistant penetrations. Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved. The project designer shall reference a maximum of two approved brands of fire caulking for the entire project. The project designer shall specify in detail the installation method of every type of fire-resistant penetration.

13.01.133.6 - Other inspections. In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the adopted Codes and other laws that are enforced by the department of building safety.

13.01.133.7 - Special inspections. Special inspections shall be accomplished according to the building code.

13.01.133.8 - Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This provision is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection. Reinspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, and/or for deviating from plans requiring the approval of the inspector. To obtain a reinspection, the applicant shall make the request for reinspection, and pay the reinspection fee in accordance with the Schedule of Fees. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

13.01.133.9 - Final inspection. The final inspection shall be made after all work required by the permits are completed. The General Contractor will coordinate the date and the final inspection. For new construction of commercial building permits, a completed "Certificate of Occupancy Check List" shall be given to the Building Division prior to scheduling of the final inspection.

13.01.134- Electrical inspections. The electrical inspector shall have the authority to remove or cause to be removed at the General Contractor's expense, all covering which has been place over any electrical system/conduit/wiring which has not been inspected and/or approved in its roughed-in state. In buildings with no electrical service in over six months, an inspection shall be required by the electrical inspector prior to giving the electrical company authorization to re-energize the building. The fee for that inspection shall be as found in the schedule of fees.

13.01.135 – Mechanical inspections. The mechanical inspector shall have the authority to remove or cause to be removed at the General Contractor's expense, all covering which has been place over any mechanical system/duct/piping/part which has not been inspected and/or approved in its roughed-in state. An air test shall be used in testing gas installations.

13.01.136 – Plumbing inspections. The plumbing inspector shall have the authority to remove or cause to be removed at the General Contractor's expense, all covering which has been place over any plumbing system/piping/part which has not been inspected and/or approved in its roughed-in state. An air or water test shall be used in testing sanitary sewer installations. An air test shall be used in testing gas installations.

13.01.137 - Inspection agencies. The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

13.01.138 - Inspection requests. It shall be the duty of the holder of the building permit or their duly authorized agent to notify their Inspector in reasonable advance notice (24 hours) of when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for all inspections of such work that are required by the adopted Codes.

13.01.139 - Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official. The Building Official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with the adopted Codes. Inspections shall be accomplished within 3 working days after the requested time. Any portions that do not comply shall be corrected, reinspected, and such portion shall not be covered or concealed until authorized by the Building Official. It shall be unlawful to move or remove an inspection sticker/tag from one property/piece of equipment to another property/piece of equipment for the purpose of showing inspection approval falsely.

ARTICLE 14 CERTIFICATE OF OCCUPANCY

13.01.141 - Use and Occupancy. No new building or structure or portion thereof shall be used or occupied until the Building Official has issued a Certificate of Occupancy for the use therefore as provided herein. No existing building or structure or portion thereof shall have a change in the occupancy classification use until the building or structure or portion thereof complies with the code provisions for the new classification use as provided for in the Building Code. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of the adopted Codes or of other ordinances of the jurisdiction.

13.01.142 - Certificate of Occupancy. After the Building Official inspects the building or structure for new construction and/or addition and finds no violations of the provisions of the adopted Codes or other laws that are enforced by the Building Division, the Building Official should issue a "Certificate of Occupancy" that should contain the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of the adopted Codes for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the Building Official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy.
9. The type of construction.
10. The occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

13.01.143 – Certificate of Completion. After the Building Official inspects the building or structure for alterations or remodeling and finds no violations of the provisions of the adopted Codes or other laws that are enforced by the Building Division, the Building Official is authorized to issue a "Certificate of Completion".

13.01.144 – Stocking Permit. A stocking permit may be requested on a case-by-case basis. Before the request will be granted, all life safety features i.e. the installed fire alarm, and/or sprinkler system must

have passed field acceptance tests. It is important to advise the owner that their goods may not be covered by insurance for damage or theft when the building has not yet received a final Certificate of Occupancy. An approved stocking permit is for the owner's/tenant's employees and vendors to install shelving, stock goods and merchandise. A stocking permit is not authorization for the general public to enter, sleep, occupy, or to otherwise use the building. A stocking permit does not authorize interviews, salesman, or employee training in the facility. There will normally be large amounts of combustible packaging that will be associated with the stocking items, so all packaging shall be removed from the building as soon as possible. The dumpster is to be located away from the building and emptied as soon as it is full (should not be left overnight).

13.01.145 - Temporary Occupancy. The Building Official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The Building Official shall set a time period during which the temporary certificate of occupancy is valid. A Temporary Certificate of Occupancy will only be considered when the building components have been inspected and approved, but there are still outstanding site issues such as: required landscaping or plants; parking lot improvements, paint striping, sidewalks, and etc. that are not completed which would prohibit the approval of a permanent CO by the review agencies due to site work that cannot be completed due to weather constraints. When requesting a TCO, the appropriate time frames must still be considered as all review agencies must give their recommendations to the Building Official. A Temporary Certificate of Completion will have the same requirements as a Temporary Certificate of Occupancy.

13.01.146 - Revocation. The Building Official is authorized to, in writing, suspend or revoke a (temporary or permanent) certificate of occupancy or completion issued under the provisions of the adopted Codes wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of the adopted Codes as determined by the Building Official.

13.01.147 - Certificate fee. If the need arises, the fee for inspection and a certificate of occupancy for a change in Group Occupancy/Use (if not a part of a current active building permit) shall be as set forth in the current schedule of fees adopted by the city council.

ARTICLE 15 SERVICE UTILITIES

13.01.151 - Connection of service utilities. No person shall make connections from a utility source to any building or system that is regulated by the adopted Codes for which a permit is required, until released by the Building Official. In buildings with no electrical service in over six months, an inspection shall be required by the electrical inspector prior to giving the electrical company authorization to re-energize the building. The fee for the inspection shall be found in the schedule of fees.

13.01.152 - Temporary connection. The Building Official shall have the authority to authorize the temporary connection of the building or system to a utility source.

13.01.153 - Authority to disconnect service utilities. The Building Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the adopted Codes and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

ARTICLE 16 APPEAL BOARDS

13.01.161 – Appeal Boards created. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official, Fire Marshal or their designees relative to the application and interpretation of Titles 12, 13, and 17 of the Municipal Code, there shall be and is hereby created Appeal Boards.

The Appeal Boards shall have no authority relative to interpretation of the administrative provision of the adopted Codes as found in this Chapter 13.01. The Appeal Boards shall have no authority to waive requirements of the adopted Codes as amended.

13.01.162 – Consistency of the Appeal Boards.

The Appeal Boards shall consist of members to be appointed by the Mayor and approved by the City Council. The members of the Appeal Boards shall be chosen from the residents of the State of Iowa at large with reference to their fitness and knowledge for such position.

The term of service for the members of the Appeal Boards shall be rotating with one member's term expiring each year. The members of the Appeal Board shall serve until their successors are appointed. The Appeal Board members shall service without pay.

Appeal Board members may be removed for cause by the Mayor with approval of the City Council.

Vacancies shall be filled for an unexpired term in the same manner as appointments. A vacancy occurs when a member resigns, dies, moves from the city, or has unexcused absences (as determined by the Appeal Boards) from three or more of the Appeal Board meetings within any twelve-month period.

The Appeal Boards shall consist of members who are qualified by experience and training to pass on matters pertaining to construction and trades who are not employees of this jurisdiction. The Appeal Boards shall be segmented into the Building Appeal Board, the Plumbing Appeal Board, the Mechanical Appeal Board, the Electrical Appeal Board, and the Housing Appeal Board as follows:

13.01.162.1 - Building Appeal Board. The Building Appeal Board shall consist of five members with ownership, operation, or involvement in the building, construction or development business within the city limits to qualify one to serve on the board.

The Building Appeal Board is responsible for Chapter 12.01 International Fire Code; Chapter 13.03 Abatement of Dangerous Buildings Code; Chapter 13.05 Demolition of Buildings and Structures; Chapter 13.06 Residential Code; Chapter 13.08 Building Code; Chapter 13.18 Factory-Built Structures; Chapter 13.20 Energy Conservation Code; Chapter 13.23 Existing Building Code; Chapter 13.25 Flood Plain Management; Chapter 13.33 Grading and Excavation; and Chapter 13.40 Sign Code of the Municipal Code.

13.01.162.2 - Plumbing Appeal Board. The Plumbing Appeal Board shall consist of six members with two members being qualified and licensed plumbing masters; two members being qualified and licensed journeyman plumbers; one member being qualified and licensed utility master; and one member being a member of the public at large.

The Plumbing Appeal Board is responsible for Chapter 13.12 Plumbing Code and Chapter 13.27 Swimming Pool, Spa, and Hot Tub Code for Single-Family Residences of the Municipal Code.

13.01.162.3 - Mechanical Appeal Board. The Mechanical Appeal Board shall consist of five members who are qualified by experience and training to pass upon matters pertaining to mechanical design, construction and maintenance and the public health aspects of mechanical systems. Two members of the Board should be licensed with the City of Council Bluffs as Mechanical Master; two members of the Board should be licensed with the City of Council Bluffs as Mechanical Journeyman; and one member of the Board should be a citizen at large.

The Mechanical Appeal Board is responsible for Chapter 13.09 Mechanical Code and Chapter 13.26 Fuel Gas Code of the Municipal Code.

13.01.162.4 - Electrical Appeal Board. The Electrical Appeal Board shall consist of not fewer than five voting numbers with no less than two but not more than four board members shall be selected from the

following: an electrical contractor operating in the jurisdiction; a licensed professional engineer engaged primarily in the design or maintenance of electrical installations; and a journeyman electrician.

In addition to hearing appeals, it shall be the duty of the Electrical Appeal Board to: review and approve the qualifications of applicants for local examination; grade and score the local electrical examinations; and establish procedures for recognition of electrical safety standards and acceptance of equipment conforming to the adopted codes and standards.

The Electrical Appeal Board is responsible for Chapter 13.16 Electrical Code of the Municipal Code.

13.01.162.5 - Housing Appeal Board. The Housing Appeal Board shall consist of one realtor, one landlord, one tenant, and two members at large. Neither of the members at large shall be a realtor, landlord or tenant.

The Housing Appeal Board is responsible for Chapter 13.21 Property Maintenance Code and Title 17 Housing of the Municipal Code.

13.01.162.6 - Citizen at Large Representative. A Citizen at Large Representative shall consist of a voting member who permanently resides within the city limits of Council Bluffs.

13.01.163 - Capacity of the Appeal Boards.

The Appeal Boards shall act in an advisory capacity to the Mayor and City Council in regard to the adopted codes, construction and related matters of interest to the City. The Building Official, Fire Marshal or their inspectors shall provide such assistance as requested by the Appeal Boards.

The Building Official, Fire Marshal or their inspectors shall be an ex-officio member of and shall act in a Secretary capacity to said Appeal Boards but shall have no vote on any matter before the Appeal Boards. The Board Secretary shall record the names and addresses of all persons examined and licensed by each Board, the results of the exam and the kinds of licenses issued to each applicant, if any, and the date of issuance.

13.01.164 – Policies of the Appeal Boards.

1. Any individual or group aggrieved by a decision of the Building Official, the Fire Marshal, and/or their inspectors may appeal that decision within thirty days by filing a written notice and an administrative filing fee with the Building Official.
2. Within fourteen days after the appeal is filed, the Appeal Boards shall schedule a hearing on the appeal. The hearing shall be held within thirty days after the filing of the appeal, unless the parties agree otherwise.
3. Hearings shall be conducted in an informal manner; formal rules of evidence shall not apply. At the hearing, all parties shall have the opportunity to present evidence and cross-examine witnesses.
4. The Appeal Boards may establish additional written rules of procedure for the conduct of hearings and their business.
5. The Appeal Boards may continue the hearing to a specified time and date if the Appeal Boards determines that additional evidence is necessary to decide the issue.
6. At the conclusion of the hearing, or within ten days after the hearing, the Appeal Board shall make written findings and either sustain, modify, or reverse the order of the Building Official. The written findings and decision shall be mailed to the appellant at the appellant's last known address. The secretary of the Appeal Board shall maintain the written findings and decision as a public record.

13.01.165 – Procedures of the Appeal Boards. The Appeal Boards shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy retained by the Building Official. The members of the Appeal Boards will each vote on a Chair and a Vice-Chair of the Board to be appointed. For all business purposes, a quorum is required and is defined as a majority of the appointed members of each of the segmented boards.

13.01.166 – Application to the Appeal Boards. An application for appeal shall be based on a claim that the true intent of the adopted Codes or the rules legally adopted there under have been incorrectly inter-

puted, the provisions of the adopted Codes do not fully apply or an equally good or better form of construction is proposed. An application fee in the amount listed in the Schedule of Fees shall be paid to the City Treasurer prior to scheduling the appeal boards meeting. Their meetings shall be scheduled or called on an as needed basis.

There shall be an administrative fee for filing an appeal with the Appeal Boards as found in Schedule of Fees as located in the City Clerk's office.

13.01.167 - Review by court. The city and any person or persons who have appealed to the Appeal Boards and are aggrieved by their decision may appeal the decision to a court of competent jurisdiction pursuant to the provisions of Iowa law.

ARTICLE 17 VIOLATIONS

13.01.171 - Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by the adopted Codes, or cause same to be done, in conflict with or in violation of any of the provisions of the adopted Codes.

13.01.172 - Notice of violation. The Building Official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of the adopted Codes, or in violation of a permit or certificate issued under the provisions of the adopted Codes. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

13.01.173 - Prosecution of violation. If the notice of violation is not complied with promptly, the Building Official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of the adopted Codes or of the order or direction made pursuant thereto.

13.01.174 - Violation penalties. Any person who violates a provision of the adopted Codes or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the Building Official, or of a permit or certificate issued under the provisions of the adopted Codes, shall be subject to penalties as prescribed by law.

13.01.175 - Municipal infraction. Any person found guilty of a violation of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Municipal Code Section 8.02.020. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the City Attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Municipal Code Chapter 1.95 in lieu of criminal prosecution.

13.01.176 – Unauthorized tampering. Notice and Orders, Signs, tags or seals posted or affixed by the Building Official shall not be mutilated, destroyed, tampered with, or removed without authorization from the Building Official. These persons shall be subject to receiving a municipal infraction citation.

ARTICLE 18 STOP WORK ORDER

13.01.181 - Stop Work Order Authority. Whenever the Building Official or designee finds any work regulated by the adopted Codes being performed in a manner either contrary to the provisions of the

adopted Codes or dangerous or unsafe, the Building Official or designee is authorized to issue a stop work order.

13.01.182 – Issuance of a Stop Work Order. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

13.01.183 – Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

13.01.184 – Emergencies. Where an emergency exists as determined by the Building Official, then the Building Official shall not be required to give a written notice prior to stopping the work but a verbal order shall be deemed to be sufficient.

ARTICLE 19 UNFIT, UNSAFE, and/or DANGEROUS STRUCTURES / EQUIPMENT

13.01.191 – Unsafe structures and/or equipment conditions. Unsafe structures and/or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the Building Official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

13.01.192 - Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, infested, filthy, and/or contaminated, or lacks ventilation, illumination, sanitary facilities, heating facilities, or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public. A structure that is fit for human occupancy is to have active utility services (i.e.: electrical current, gas pressure, water available, sanitary sewer).

13.01.193 – Dangerous Structures or premises. Any structure or a premise that has any or all of the conditions or defects described below shall be considered as dangerous:

1. Any door, aisle, passageway, stairway, or exit or other means of egress that does not conform to the approved building or fire code as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.

7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.

9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

13.01.194 – Record of conditions. The Building Official shall cause a report to be filed on an unfit/unsafe/dangerous condition. The report shall state the occupancy of the structure and the nature of the unfit/unsafe/dangerous condition.

13.01.195 – Notice of conditions. If an unfit/unsafe/dangerous condition is found, the Building Official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unfit/unsafe/dangerous and specifies the required repairs or improvements to be made to abate the unfit/unsafe/dangerous condition, or that requires the unfit/unsafe/dangerous structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the Building Official acceptance or rejection of the terms of the order. The Building Official shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unfit/unsafe building as defined in this section, the Building Official shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within such period of time as specified therein, to either commence the required repairs or improvements, or demolition and removal, of the building or structure, or portions thereof; and all such work shall be completed within the period of time designated therein, unless otherwise stipulated by the Building Official. If necessary, such notice shall also require the building, structure, or portions thereof; to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the Building Official. Proper service of said notice shall be accomplished as per the established methods of service in a following section.

13.01.196 – Methods of service. Such notice of unfit/unsafe/dangerous shall be deemed properly served if a copy thereof is: (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; (c) delivered in any other manner as prescribed by local law; or (d) publishing in the legal notices in the official city newspaper and posting the notice on the building. If the certified or registered letter is returned showing that the letter was not delivered or if the owner's mailing address is unknown, then a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

However, where an emergency exists as determined by the Building Official, then the Building Official shall not be required to give a written notice prior to stopping the work but a verbal notice and order shall be deemed to be sufficient.

13.01.197 - Restoration. The structure or equipment determined to be unfit/unsafe/dangerous by the Building Official may be permitted to be restored to a fit/safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Codes.

13.01.198 - Vacation. The Building Official shall if necessary also require the building, structure, or portions thereof, to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the Building Official.

13.01.199 - Public nuisances. The Building Official may declare all such unfit/unsafe/dangerous buildings, structures or appendages to be public nuisances which shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures. Also see Section 8.54 and Section 1.95 of the Municipal Code. As an alternative, the Building Official, or other employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

13.01.200 – Securing. All exterior doors, windows, and/or hatchways for any occupied building shall be provided with devices designed to provide security for the occupants and/or property within. Entry locks shall tightly secure the door, window, and/or hatchway and shall be maintained. If a vacant building does not provide devices designed to provide security and/or is open to entry, then such building shall be regarded as a nuisance as defined in Section 1.95 of the Municipal Code. Such building owner, tenant, and/or agent shall be given a 24 hour maximum notice to be secured and then the nuisance abated as defined in Section 8.54.050 of the Municipal Code.

ARTICLE 20 DESIGN CRITERIA

13.01.201 - Climatic and Geographic Design Criteria for Council Bluffs

Ground Snow Load = 30 pounds per square foot

Wind Speed = 90 mph for a 3 second gust with Exposure C

Topographic effects = Yes

Seismic Design = IRC Section R301.2(2) is Category A or IBC Section 1613

Weathering = Severe

Frost Line Depth = 42 inches below finished grade *

Termites = Moderate to Heavy

Decay = Slight to Moderate

Winter Design Temperature = -10 degrees

Ice Barrier Underlayment Required = Yes

Flood Hazards = FEMA map Community #190235 and see Municipal Code Chapter 13.25

Air Freezing Index = 1800

Mean Annual Temp = 50 degrees F

Climate Zone = 5 A

* Accessory structures that are heated or unheated and are 576 square feet or less shall have a continuous footing for the foundation with a footing depth is at least twelve inches (12") below finish grade where the footing, foundation, and floor slab are one integral unit (floating slab).

ARTICLE 21 LICENSES FOR DEMOLITION CONTRACTORS

13.01.211 – Requirement and Regulations. The requirements and regulations for Demolition Contractor's licenses shall be found in Municipal Code Section 13.05.090

ARTICLE 22 LICENSES FOR GENERAL CONTRACTORS

13.01.221 – Requirement and Regulations. The requirements and regulations for General Contractor's licenses shall be found in Chapter 13.07 of the Municipal Code. Any company or person working as a General Contractor shall have a valid General Contractor's license issued by the City of Council Bluffs.

ARTICLE 23 LICENSES FOR MECHANICAL MASTERS

13.01.231 – Requirements and Regulations. Any person working at the Mechanical trade shall have a valid mechanical license issued by the State of Iowa.

13.01.232 – State Mechanical License. The Iowa State Legislature passed HF 908 that licensed the mechanical trade. The effective date of this State licensing law was July 2009. This state law also prohibits the City from licensing the Mechanical trade.

ARTICLE 24 LICENSES FOR PLUMBING MASTERS

13.01.241 – Requirements and Regulations. Any person working at the Plumbing trade shall have a valid plumbing license issued by the State of Iowa.

13.01.242 – State Plumbing License. The Iowa State Legislature passed HF908 that licensed the plumbing trade. The effective date of this State licensing law was July 2009. This state law also prohibits the City from licensing the Plumbing trade.

ARTICLE 25 LICENSES FOR ELECTRICAL CONTRACTORS

13.01.251 – Requirement and Regulations. The requirements and regulations for Electrical Contractor's licenses shall be found in Chapter 13.17 of the Municipal Code. Any person working in the Electrical trade shall have a valid electrical license issued by the State of Iowa or by the City of Council Bluffs.

13.01.252 – State Electrical License. The Iowa State Legislature passed HF 897 that licensed the electrical trade. The effective date of the State licensing law was January 2008. This state law does not prohibit the City from licensing the electrical trade.

ARTICLE 26 REGISTRATIONS FOR SIGN CONTRACTORS

13.01.261 – Requirement and Regulations. The requirements and regulations for Sign Contractor's registrations shall be found in Section 13.40.050 of the Municipal Code.

ARTICLE 27 INSURANCE and BOND

13.01.271 – Insurance Requirements. A contractor licensed or registered with the City of Council Bluffs that desires to be issued permits shall furnish to the city Building Division a certificate of insurance, subject to approval by the city attorney, evidencing commercial general liability insurance coverage or its equivalent in the minimum amount of one million dollars (\$1,000,000.00) per occurrence

for bodily injury, including death or damage to property of others, arising out of work performed or responsibilities assumed under the license. The aggregate limit shall be no less than one million dollars (\$1,000,000.00). In addition, the master or contractor shall furnish a certificate of insurance, subject to approval by the city attorney, evidencing worker's compensation insurance sufficient to satisfy the laws of the state of Iowa; employer's liability insurance in the minimum amount of one hundred thousand dollars (\$100,000.00); and auto liability insurance in the minimum amount of one million dollars (\$1,000,000.00).

These limits may be provided by any combination of primary and excess policies. The insurance company shall endeavor to provide thirty (30) days' notice of cancellation or nonrenewal to the city.

The above insurance requirements shall apply to General Contractors, Electrical Contractors, Demolition Contractors, Moving Contractors, Sign Contractors, or Grading Contractors licensed/registered by the City of Council Bluffs.

13.01.272 – Bond Requirements.

There shall be no Contractor's bonding requirement for a license issued by the City.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (- - 2010) as by law provided.

PASSED
AND
APPROVED: _____, 2010

Thomas P. Hanafan, Mayor

Attest:

Marcia L. Worden, City Clerk

First Consideration: March 29, 2010

Second Consideration: April 12, 2010

Third Consideration:

Council Communication

Department: Community Development Case No.: URN-10-001 Applicant: Community Development Department	Resolution No.: <u>10-98</u> Ordinance No.: <u>6068</u>	City Council: 3-29-10 Planning Commission: 3-9-10 First Reading: 3-29-10 Second Reading: 4-12-10 Third Reading: 4-26-10
Subject/Title		
Creation and adoption of the Nash Boulevard Urban Renewal Plan		
Location		
South of Interstate 29, south of Avenue N (Nash Boulevard), west of North 22 nd Street and east of North 24 th Street		
Background/Discussion		
<u>Background</u> Section 403 of the Iowa Code allows a municipality to use urban renewal powers in locations that are declared either as a slum and blighted or economic development area. Once pronounced an urban renewal area, various actions are allowed to be undertaken in order to rehabilitate, conserve, redevelop or develop the affected property. In the past, the City of Council Bluffs has pursued urban renewal activities in several areas of the City. The purpose of these activities was to remove blighting conditions, protect or improve the economic viability of property and to increase the taxable value of properties within these areas. These areas have been selected due to their economic importance to the City and/or the presence of the blighting conditions which threaten either their current stability or deter future development. It has been determined that the need exists for urban renewal actions in an area located in northwestern Council Bluffs, south of Avenue N (Nash Boulevard), west of North 22 nd Street and east of North 24 th Street. This area is currently the site of a vacant and blighted former hotel and adjacent vacant land. Assistance in the form of an urban renewal project area, conforming to the Section 403 of Iowa Code, is necessary to acquire land; improve regulatory control; improve public infrastructure and facilities; and to allow for private development of vacant land.		
<u>Discussion</u> On February 22, 2010, the City Council passed a resolution of necessity which directed staff to initiate the process of creating the Nash Boulevard Urban Renewal Plan and Area. This resolution established the following actions and timeframes:		
March 4, 2010	Consultation hearing with affected taxing jurisdictions	
March 9, 2010	City Planning Commission hearing and review	
March 29, 2010	City Council public hearing	
The consultation hearing was held on March 4, 2010 and no individuals or groups appeared at the hearing. Additionally, no written correspondence has been received by the Community Development Department either in support or against the proposed plan.		

Iowa statutes require the City Planning Commission to review the plan for conformity to the comprehensive plan and to forward a recommendation to City Council prior to public hearing. An urban renewal plan conforming to the requirements of Chapter 403 of the Iowa Code has been prepared and is attached for your review.

The 1994 Comprehensive Plan (general plan) for the City identifies the future land use for the project area as C-2/General Commercial. The planned activity for the site is development of a single-family and two-family subdivision which requires a general plan amendment and rezoning. Prior to the adoption of this urban renewal plan, the City needs to adopt a general plan amendment identifying one and two family residential as the future land use within the project area.

Staff Recommendation

The Community Development Department recommends approval of the Nash Boulevard Urban Renewal Plan and Area and first consideration of the TIF ordinance.

Public Hearing

Gayle Malmquist appeared before the Planning Commission in favor of the request. No one appeared in opposition.

Planning Commission Recommendation

The Planning Commission recommends creation of the Nash Boulevard Urban Renewal Plan and adoption of the required plan for the area south of Interstate 29, south of Avenue N (Nash Boulevard), west of North 22nd Street to North 24th Street.

VOTE: AYE 10 NAY 0 ABSTAIN 0 ABSENT 1 Motion: Carried

Attachments

Nash Boulevard Urban Renewal Plan

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department
Approved by: Donald D. Gross, Director, Community Development Department

ORDINANCE NO. 6068

AN ORDINANCE PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON ALL PROPERTY LOCATED WITHIN THE NASH BOULEVARD URBAN RENEWAL AREA, IN THE CITY OF COUNCIL BLUFFS, COUNTY OF POTTAWATTAMIE, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, CITY OF COUNCIL BLUFFS, COUNTY OF POTTAWATTAMIE, COUNCIL BLUFFS COMMUNITY SCHOOL DISTRICT, AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY THE CITY IN CONNECTION WITH THE NASH BOULEVARD URBAN RENEWAL REDEVELOPMENT PROJECT

WHEREAS, the City Council of the City of Council Bluffs, State of Iowa, after public notice and hearing as prescribed by law and pursuant to Resolution No. 10-98 passed and approved on the 29th day of March, 2010, adopted an Urban Renewal Plan (the "Urban Renewal Plan") for an urban renewal area known as the Nash Boulevard Urban Renewal Area (the "Urban Renewal Area"), which Urban Renewal Area includes the lots and parcels located within the area legally described as follows:

Part of the NW1/4 NW1/4 of Section 26-75-44 described as follows: Commencing 304.38' North and 33' East of the SW Corner of the NW1/4 NW1/4, thence North 440.72', Northeasterly 690.69', South 716.57' and West 619.98' to the Point of Beginning, along with that part of North 24th Street right-of-way lying north of the North line of Avenue L and south of the South line of Avenue N/Nash Boulevard.

WHEREAS, expenditures and indebtedness are anticipated to be incurred by the City of Council Bluffs, State of Iowa, in the future to finance urban renewal project activities carried out in furtherance of the objectives of the Urban Renewal Plan; and

WHEREAS, the City Council of the City of Council Bluffs, State of Iowa, desires to provide for the division of revenue from taxation in the Urban Renewal Project Area, as above described, in accordance with the provisions of Section 403.19 of the Code of Iowa, as amended.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, STATE OF IOWA:

Section 1. That the taxes levied on the taxable property in the Urban Renewal Project Area legally described in the preamble hereof, by and for the benefit of the State of Iowa, City of Council Bluffs, County of Pottawattamie, Council Bluffs Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.

Section 2. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Project Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City of Council Bluffs, State of Iowa, certifies to the Auditor of Pottawattamie County, Iowa the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described herein shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid.

Section 3. That portion of the taxes each year in excess of the base period taxes determined as provided in Section 2 of this Ordinance shall be allocated to and when collected be paid into a special tax increment fund of the City of Council Bluffs, State of Iowa, hereby established, to pay the principal of and interest on loans, monies advanced to, indebtedness, whether funded, refunded, assumed or otherwise, including bonds or obligations issued under the authority of Section 403.9 or 403.12 of the Code of Iowa, as amended, incurred by the City of Council Bluffs, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Urban Renewal Project Area pursuant to the Urban Renewal Plan, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2, but only to the extent authorized in Section 403.19(2), and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the Urban Renewal Project Area without any limitation as hereinabove provided.

Section 4. Unless or until the total assessed valuation of the taxable property in the Urban Renewal Project Area exceeds the total assessed value of the taxable property in the Urban Renewal Project Area as shown by the assessment roll referred to in Section 2 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Urban Renewal Project Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

Section 5. At such time as the loans, advances, indebtedness, bonds and interest thereon of the City of Council Bluffs, State of Iowa, referred to in Section 3 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the

Urban Renewal Project Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Section 6. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to fully implement the provisions of Section 403.19 of the Code of Iowa, as amended, with respect to the division of taxes from property within the Urban Renewal Project Area as described above. In the event that any provision of this Ordinance shall be determined to be contrary to law, it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Urban Renewal Project Area and the territory contained therein.

Section 7. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this ____ day of April, 2010.

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

Read First Time: March 29, 2010

Read Second Time: April 12, 2010

Read Third Time: _____, 2010

I, Marcia L. Worden, City Clerk of the City of Council Bluffs, State of Iowa, hereby certify that the above and foregoing is a true copy of Ordinance No. 6068 passed and approved by the City Council of the City at a meeting held _____, 2010, signed by the Mayor on _____, 2010, and published in the "Daily Nonpareil" on _____, 2010.

Marcia L. Worden, City Clerk
City of Council Bluffs, State of Iowa

(SEAL)

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Council Communication

Department: Legal	Ordinance No. <u>6069</u>	First Reading <u>3/29/2010</u> Second Reading <u>4/12/2010</u> Third Reading _____
Case/Project No.		
Applicant.		
SUBJECT/TITLE		
AN ORDINANCE to amend Chapter 3.08 "Beer and Liquor Control" of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Section 3.08.045 "Exceptions to Section 3.08.040(5)", to include open air taverns as an exception in areas zoned as C-4, with restrictions.		
BACKGROUND		
This ordinance is being proposed to allow open air taverns in areas zoned C-4 with restrictions, to allow outdoor service in the 100 block of West Broadway.		
RECOMMENDATION		
Approve the ordinance as proposed.		

Richard Wade

Department Head Signature

Mayor Signature

ORDINANCE NO. 6069

AN ORDINANCE to amend Chapter 3.08 “Beer and Liquor Control” of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Section 3.08.045 “Exceptions to Section 3.08.040(5)”, to include open air taverns as an exception in areas zoned as C-4, with restrictions.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 3.08 “Beer and Liquor Control” of the 2005 Municipal Code of

Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section

3.08.045 “Exceptions to Section 3.08.040(5)”, to read as follows:

“3.08.045 Exceptions to Section 3.08.040(5). (a) Open-air Dining—Exception. If an applicant can establish that approximately fifty (50) percent of its gross revenue from items to be consumed on premise are derived, or are likely to be derived from the sale of nonalcoholic food items, and if the establishment is or is to be located in an area zoned C-4, C-3, or in an area zoned C-2 and is not within fifty (50) feet of a residential zone, or a nonresidential area other than C-4 or C-2, and is not within three hundred (300) feet of a residential use or zone. The restrictions established in Section 3.08.040(5) of this chapter, need not apply to the entire premises if the conditions listed above are met. For that portion of the premises which the applicant wishes to exclude from such restrictions, the following restrictions must be complied with:

(1) It must be so enclosed so that it may only be entered from that portion of the premises which is in compliance with Section 3.08.040(5) of this chapter.

(2) All exits from such area shall be for emergency use only and shall be equipped with the appropriate hardware to ensure such limited use.

(3) No amplified music shall be permitted in such area between the hours of 10:00 p.m. and 7:00 a.m. Amplified music will be permitted in such areas between the hours of 7:00 a.m. and 10:00 p.m., so long as it complies with sound levels specified in Section 4.50.080(8). Special sound variances pursuant to Section 4.50.080(7.2) may be granted. If any outdoor dining facility is cited for violating Chapter 4.50 three (3) times in a twelve (12) month period that ultimately result in three (3) convictions, the service of alcoholic beverages in such area shall be suspended for a twelve (12) month period.

(4) No live dancing, such as go-go dancing, strip tease acts or exotic dancing shall be permitted in such area.

(5) Such area must be approved by the health department for open-air dining.

(6) Outdoor dining facilities in C-2 zones shall not allow alcohol sales or consumption in their outdoor areas between the hours of twelve midnight and six a.m.

(7) If the application is for an establishment in a C-2 zone, the applicant shall have the duty to notify all property owners within three hundred (300) feet of the premises to be licensed. This notice shall be given in the following fashion: (A) applicant shall establish a list of parties to be notified through utilization of the records of the county auditor; (B) applicant shall prepare envelopes addressed to each of the parties identified in subsection (a)(7)(A) of this section, with the appropriate postage for certified delivery affixed thereto; (C) applicant shall prepare a notice for each of such property owners, advising of the nature of the action which is being sought, including the date it is to be acted upon by the city council; (D) applicant shall deliver all of the above to the city clerk at least ten (10) days prior to the date at which the action is proposed to be taken; (E) it shall be the duty of the city clerk to insert the notices into the envelopes and deliver same to the post office within forty-eight (48) hours of receipt.

(b) Golf-courses—Exception. The restrictions established in Section 3.08.040(5) of this chapter shall not apply to golf courses consisting of fifteen (15) acres or more.

(c) Stadium-type Activities—Exception. For the purpose of this section, a stadium-type activity is a sporting event to which there is controlled access and paid admission. It shall only be permitted in areas zoned nonresidential and shall not be permitted within three hundred (300) feet of a residential use or zone. The restrictions established in Section 3.08.040(5) of this chapter, need not apply to the entire premises if the conditions listed above are met. For that portion of the premises which the applicant wishes to exclude from such restrictions, the following restrictions must be complied with:

(1) It must be enclosed by a fence or a wall at least six feet high.

(2) It must be enclosed so that it may only be entered from that portion of the premises which is in compliance with Section 3.08.040(5) of this chapter.

(3) All exits from such area shall be for emergency use only and shall be equipped with the appropriate hardware to ensure such limited use.

(4) No amplified music shall be permitted in such area.

(5) No live dancing, such as go-go dancing, strip tease acts or exotic dancing shall be permitted in such area.

(d) Special Events—Exception. The restrictions established in Section 3.08.040(5) of this chapter shall not apply to special events as long as they are not held within five hundred (500) feet of a residential use. For purposes of this exception, a special event shall last a maximum of seventy-two (72) hours, and the applicant and location shall only be permitted this exception once annually. This special event exception shall only be permitted if the following restrictions are satisfied:

(1) The applicant has developed a plan to address crowd and traffic control at the special

event which has been approved by the chief of police. This approval shall not be unreasonably denied and, if an applicant's plan is denied, he/she may appeal such denial to the city council by filing with the city clerk a written notice of appeal within ten (10) days of the chief's denial of such plan;

(2) The applicant has developed a plan to comply with state and city health codes which has been approved by the city's director of public health. This approval shall not be unreasonably denied and, if an applicant's plan is denied, he/she may appeal such denial to the city council, as long as notice of such appeal is presented in writing to the city clerk within ten (10) days of the date upon which the director denied such plan;

(3) Premises authorized under this exception shall not be permitted to operate between the hours of twelve midnight and six a.m.;

(4) Applicant's failure to abide by any of these restrictions and the plans approved herein or any other city or state law governing the sale and/or dispensing of alcoholic beverages shall be grounds for the immediate cessation of a special event exception.

(e) PC and A-3—Exception. The restrictions established in Section 3.08.040(5) of this chapter shall not apply to liquor license establishments which are located in either a PC or an A-3 zone as long as the following criteria have been met:

(1) The licensed premises is not within five hundred (500) feet of a residential zone.

(2) Access to the licensed premises is restricted.

(f) Open Air Tavern – Exception. In the C-4 zone, a liquor license establishment need not comply with the requirements of Section 3.08.040(5) of this chapter if the non-complying portion of the liquor license premises meets the following conditions:

(1) It is contiguous to a liquor license premises that does comply with Section 3.08.040(5) of this chapter.

(2) It is discernible from areas that are not part of the liquor license premises.

(3) Access to the area is restricted.

(4) No open containers of alcohol or consumption of alcohol are permitted in this area between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday, or 11:00 p.m. and 7:00 a.m. on Fridays and Saturdays.

(5) Amplified music will be permitted in these areas during the hours that consumption is permitted, but will be subject to the city's noise ordinance.

(f g) For purposes of this section, when determining the distance from a residential use or zone, it will be measured from the property line of the residential use or zone to the actual licensed premises.

(g h) For purposes of this section, nonresidential zones shall include those zones for which

a residential dwelling is not a principal use.

SECTION 2. REPEALER. All ordinances or parts or ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. (Ord. 6040 § 1, 2009).

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND _____, 2010
APPROVED

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN City Clerk

First Consideration: March 29, 2010

Second Consideration: April 12, 2010

Public Hearing: April 12, 2010

Third Consideration: _____